



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25, 73, and 76

[MB Docket No. 14-127; FCC 16-4]

Expanded Online Public Inspection File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's Report and Order, Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees. This document is consistent with the Report and Order, which stated that the Commission would publish a document in the Federal Register announcing OMB approval and the effective date of the rules.

DATES: The amendments to 47 CFR 25.701(d), (d)(2), (d)(3), (e)(3), and (f)(6), 25.702, 73.1943(d), 73.3526(b)(1) through (3), 73.3527(b)(1) and (2), 76.630, 76.1700, and 76.1702(a), published at 81 FR 10105, February 29, 2016, are effective June 24, 2016.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, Cathy.Williams@fcc.gov, (202) 418-2918.

SUPPLEMENTARY INFORMATION: This document announces that, on May 4, 2016, OMB approved the information collection requirements contained in the Commission's Report and Order, FCC 16-4, published at 81 FR 10105, February 29, 2016. The OMB Control

Numbers are 3060-1207, 3060-0214, and 3060-0316. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW, Washington, DC 20554. Please include the OMB Control Numbers, 3060-1207, 3060-0214, and 3060-0316, in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

SYNOPSIS

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on May 4, 2016, for the new information collection requirements contained in the Commission's rules at 47 CFR 25.701(d), (d)(2), (d)(3), (e)(3) and (f)(6), 25.702, 73.1943(d), 73.3526(b)(1) – (3), 73.3527(b)(1) and (2), 76.630, 76.1700 and 76.1702(a). Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060-1207, 3060-0214, and 3060-0316.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-1207.

OMB Approval Date: May 4, 2016.

OMB Expiration Date: May 31, 2019.

Title: Section 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 3 respondents; 3 responses.

Estimated Time per Response: 18 hours

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Sections 154, 301, 302, 303, 307, 309, 319, 332, 605, and 721 of the Communications Act of 1934, as amended.

Total Annual Burden: 54 hours.

Total Annual Cost: \$592.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB-2, "Broadcast Station Public Inspection Files," that covers the PII contained in the

broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. On January 28, 2016, the Commission adopted a Report and Order (“R&O”) in MB Docket No. 14-127, FCC 16-4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, expanding the requirement that public inspection files be posted to the FCC-hosted online public file database to satellite TV (also referred to as “Direct Broadcast Satellite” or “DBS”) providers and to satellite radio (also referred to as “satellite Digital Audio Radio Services” or “SDARS”) licensees, among other entities. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning these entities to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required entities to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material

from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

The Commission first adopted a public inspection file requirement for broadcasters more than 40 years ago. The public file requirement grew out of Congress' 1960 amendment of Sections 309 and 311 of the Communications Act of 1934. Finding that Congress, in enacting these provisions, was guarding “the right of the general public to be informed, not merely the rights of those who have special interests,” the Commission adopted the public inspection file requirement to “make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees.” The information provided in the public file enables citizens to engage in an informed dialog with their local video provider or to file complaints regarding provider operations. Satellite TV (also known as “Direct Broadcast Satellite” or “DBS”) providers and satellite radio (also referred to as “Satellite Digital Audio Radio Services” or “SDARS”) licensees have public and political file requirements modeled, in large part, on the longstanding broadcast requirements. With respect to DBS providers, the Commission adopted public and political inspection file requirements in 1998 in conjunction with the imposition of certain public interest obligations, including political broadcasting requirements, on those entities. DBS providers were required to “abide by political file obligations similar to those requirements placed on terrestrial broadcasters and cable systems” and were also required to maintain a public file with records relating to other DBS public interest obligations. The Commission imposed equal employment opportunity and political broadcast requirements on SDARS licensees in 1997, noting that the rationale behind imposing these requirements on broadcasters also applies to satellite radio.

47 CFR 25.701(d) requires each DBS provider to keep and permit public inspection of a complete and orderly record (political file) of all requests for DBS origination time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the provider of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file. All records required to be retained by this section must be placed in the political file as soon as possible and retained for a period of two years. DBS providers must make available, by fax, email, or by mail upon telephone request, copies of documents in their political files and assist callers by answering questions about the contents of their political files. If a requester prefers access by mail, the DBS provider must pay for postage but may require individuals requesting documents to pay for photocopying. If a DBS provider places its political file on its Web site, it may refer the public to the Web site in lieu of mailing copies.

Any material required to be maintained in the political file must be made available to the public by either mailing or Web site access or both.

The R&O changes 47 CFR 25.701(d) to require DBS providers to place all new political file material required to be retained by this section in the online file hosted by the Commission. The R&O also eliminates the requirement that DBS providers honor requests by telephone for copies of political file materials if those materials are made available online.

47 CFR 25.701(f)(6) requires each DBS provider to maintain a public file containing a complete and orderly record of quarterly measurements of: channel capacity and yearly average

calculations on which it bases its four percent reservation, as well as its responses to any capacity changes; a record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity; and a record of entities that have requested capacity, disposition of those requests and reasons for the disposition. All records required by this provision must be placed in a file available to the public as soon as possible and be retained for a period of two years.

The R&O changes 47 CFR 25.701(f)(6) to require DBS providers to place all public file material required to be retained by this section in the online file hosted by the Commission. The R&O also requires that each DBS provider place in the online file the records required to be placed in the public inspection file by 47 CFR 25.701(e)(commercial limits in children's programs) and by 47 CFR 25.601 and Part 76, Subpart E (equal employment opportunity requirements) and retain those records for the period required by those rules. In addition, the R&O requires each DBS provider to provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the provider has a Web site, and provide on its Web site contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each DBS provider is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. In addition, each DBS provider must place the address of the provider's local public file in the Commission's online file unless the provider has fully transitioned to the FCC's online public file (e.g., posts to the FCC's online file database all public and political file material required to be maintained in the public inspection file) and also

provides online access via the provider's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

47 CFR 25.702. The R&O adds this new rule. New 47 CFR 25.702(b) requires each SDARS licensee to maintain a complete and orderly record (political file) of all requests for SDARS origination time made by or on behalf of candidates for public office, together with the disposition made by the provider of such requests, and the charges made, if any, if the request is granted. The disposition must include the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file. SDARS licensees are required to place all records required by this section in the political file as soon as possible and retain the record for a period of two years.

New 47 CFR 25.702(c) requires each SDARS applicant or licensee to place in the online file hosted by the Commission the records required to be placed in the public inspection file by 47 CFR 25.601 and 73.2080 (equal employment opportunities) and to retain those records for the period required by those rules. Each SDARS licensee must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the licensee has a Web site, and provide on its Web site contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each SDARS licensee is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. In addition, each SDARS licensee must place the address of the provider's local public file in the Commission's online file unless the provider has fully transitioned to the FCC's online public file

(i.e., posts to the Commission's online public file all public and political file material required to be maintained in the public inspection file) and also provides online access via the licensee's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

OMB Control Number: 3060-0214.

OMB Approval Date: May 4, 2016.

OMB Expiration Date: May 31, 2019.

Title: Sections 73.3526 and 73.3527, Local Public Inspection File, Sections 73.1212, 76.1701 and 73.1943, Political Files.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal government; Individuals or households.

Number of Respondents and Responses: 24,962 respondents; 64,374 responses.

Estimated Time per Response: 1 - 52 hours

Frequency of Response: Recordkeeping requirement; on occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,093,149 hours.

Total Annual Cost: \$3,653,372.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB-2, “Broadcast Station Public Inspection Files,” that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. On January 28, 2016, the Commission adopted a Report and Order (“R&O”) in MB Docket No. 14-127, FCC 16-4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees. The R&O expands the requirement that public inspection files be posted to an FCC-hosted online public file database to cable operators, satellite TV (also referred to as “Direct Broadcast Satellite” or “DBS”) providers, broadcast radio licensees, and satellite radio (also referred to as “Satellite Digital Audio Radio Services” or “SDARS”) licensees. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning these entities to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required entities to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own

database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

With respect to broadcast radio licensees, the Commission commenced the transition to an online file with commercial stations in larger markets with five or more full-time employees, while postponing temporarily all online file requirements for other radio stations. The R&O also requires stations to provide information to the online file regarding the location of the station's main studio.

With respect to cable operator public file requirements, the R&O phased-in the requirement to commence uploading political file documents to the online file for smaller cable systems and exempted cable systems with fewer than 1,000 subscribers from all online public file requirements.

OMB Control Number: 3060-0316.

OMB Approval Date: May 4, 2016.

OMB Expiration Date: May 31, 2019.

Title: 47 CFR Sections 76.1700, Records to be maintained locally by Cable System Operators; 76.1702, Equal Employment Opportunity; 76.1703, Commercial Records on Children's Programs; 76.1707, Leased Access; 76.1711, Emergency Alert System (EAS) Tests and Activation.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 3,000 respondents; 3,000 responses.

Estimated Time per Response: 18 hours

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, and 573 of the Communications Act of 1934, as amended of the Communications Act of 1934, as amended.

Total Annual Burden: 54,000 hours.

Total Annual Cost: \$591,840.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: The Commission prepared a system of records notice (SORN), FCC/MB-2, "Broadcast Station Public Inspection Files," that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: The Commission revised this collection to reflect the Commission's adoption of a Report and Order ("R&O") in MB Docket No. 14-127, FCC 16-4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, adopted on January 28, 2016. The R&O revised 47 CFR Sections 76.1700 and 76.1702(a).

The R&O expands to cable operators the requirement that public inspection files be posted to an FCC- hosted online public file database. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible

while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning cable operators to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required cable operators to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

Section 76.1700 addresses the records to be maintained by cable system operators. The R&O revised Section 76.1700 to require that cable operators maintain their public inspection file online on the Web site hosted by the FCC. In addition, the Commission reorganized Section 76.1700 to more clearly address which records must be maintained in the public inspection file versus those that must be made available to the Commission or franchising authority upon request. Among other changes, the Commission clarified that proof-of-performance test data and signal leakage logs and repair data must be made available only to the Commission and, in the case of proof-of-performance test data, also to the franchisor, and not to the public. Accordingly, this information is not required to be included in the public inspection file or in the online public inspection file.

The Commission phased-in the requirement to commence uploading political file documents to the online file for smaller cable systems and exempted cable systems with fewer than 1,000 subscribers from all online public file requirements. The R&O also made several minor

additional changes to the existing cable public file requirements—it requires operators, when first establishing their online public file, to provide a list of the zip codes served by the system and requires them to identify the employment unit(s) associated with the system. The R&O also requires cable systems to provide the contact information for their local file. In addition, each cable system must place the address of its local public file in the Commission's online file unless the system has fully transitioned to the FCC's online public file (i.e., posts to the Commission's online public file all public and political file material required to be maintained in the public inspection file) and also provides online access via the system's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

Apart from these minor exceptions, the R&O does not adopt new or modified public inspection file requirements. The Commission's goal was simply to adapt the existing cable public file requirements to an online format.

47 CFR 76.1700 requires cable system operators to place the public inspection file materials required to be retained by the following rules in the online public file hosted by the Commission, with the exception of existing political file material which cable systems may continue to retain in their local public file until the end of the retention period: 76.1701 (political file), 76.1702 (EEO), 76.1703 (commercial records for children's programming), 76.1705 (performance tests—channels delivered); 76.1707 (leased access); and 76.1709 (availability of signals), 76.1710 (operator interests in video programming), 76.1715 (sponsorship identification), and 76.630 (compatibility with consumer electronics equipment. Cable systems with fewer than 5,000

subscribers may continue to retain their political file locally and are not required to upload new political file material to the online public file until March 1, 2018. In addition, cable systems may elect to retain the material required by 76.1708 (principal headend) locally rather than placing this material in the online public file.

47 CFR 76.1700(b) requires cable system operators to make the records required to be retained by the following rules available to local franchising authorities: 76.1704 (proof-of-performance test data) and 76.1713 (complaint resolution).

47 CFR 76.1700(c) requires cable system operators to make the records required to be retained by the following rules available to the Commission: 76.1704 (proof-of-performance test data), 76.1706 (signal leakage logs and repair records), 76.1711 (emergency alert system and activations), 76.1713 (complaint resolution), and 76.1716 (subscriber records).

47 CFR 76.1700(d) exempts cable television systems having fewer than 1,000 subscribers from the online public file and the public inspection requirements contained in 47 CFR 76.1701 (political file); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); and 76.1715 (sponsorship identifications).

47 CFR 76.1700(e) requires that public file material that continues to be retained at the system be retained in a public inspection file maintained at the office which the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business or at any accessible place in the community served by the system unit(s) (such as a public registry for documents or an attorney's office). Public files must be available for public inspection during regular business hours.

47 CFR 76.1700(f) requires cable systems to provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the system has a Web site, and provide contact information on its Web site for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system retains documents in the local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system.

47 CFR 76.1700(g) requires that cable operators make any material in the public inspection file that is not also available in the Commission's online file available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies must be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

47 CFR 76.1702(a) requires that every employment unit with six or more full-time employees shall maintain for public inspection a file containing copies of all EEO program annual reports filed with the Commission and the equal employment opportunity program information described in 47 76.1702(b). These materials shall be placed in the Commission's online public inspection file for each cable system associated with the employment unit. These materials must be placed in the Commission's online public inspection file annually by the date that the unit's EEO program annual report is due to be filed and shall be retained for a period of five years. A

headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multichannel video programming distributor that operates multiple units shall be maintained in the Commission's online public file for every cable system associated with the headquarters employment unit.

Special note – The information collection requirements contained in 47 CFR 76.630 was approved by the OMB on March 21, 2016 under a non-substantive change submission. The OMB control number is 3060-0667.

FEDERAL COMMUNICATIONS COMMISSION.

Gloria J. Miles,
Federal Register Liaison Officer.
Office of the Secretary.

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